IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRD DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 13951 of 2004

Between:

M/s. The Chodavaram Co-operative Sugars Ltd., Godava, Visakhapatnam Dist.
rep.by its M.D.

..... PETITIONER

AND

1 The Assistant Commissioner of Income Tax, Circle-5(1), Visakhapatnam.
2 The Commissioner of Income Tax (Appeals-I), Visakhapatnam.
3 The Commissioner of Income Tax-I, Visakhapatnam.
4 The Manager, M/s.visakhapatnam Dist.Co-operative Central Bank

Ltd,Chodavaram, Visakhapatnam Dist.
5 The Manager, M/s.State Bank of India, Govada, Visakhapatnam Dist.
6 The Manager, M/s.State Bank of India, Chodavaram, Visakhapatnam Dist.
7 The Manager, M/s.Andhra Pradesh Bank, Chodavaram,Visakhapatnam Dist.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, direction or order in the nature of writ of Mandamus holding that the action of the 1st respondent is illegal, arbitrary and against the law and consequently direct the 1st Respondent to refund an amount of Rs.18,01,206/- recovered from Respondents 4 and 5 by way of Bank attachment.

Counsel for the Petitioner: MR.S.RAVI, Advocate.

Counsel for the Respondents No.1 to 3 : Mr.J.V.PRASAD & GP FOR LABOUR.

Counsel for the Respondent No.4 : Mr.M.S.RAMACHANDRA RAO.

The Court made the following :

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ORDER : (per Sri Bilal Nazki, J)

Heard learned Counsel for the parties. With their consent, the Writ Petition is disposed of at this stage.

The grievance of the petitioner is that there was certain liability, for which the appropriate authority had granted him time to deposit in instalments. Although the order was in force, certain instalments were not paid and because violation of the order, the Bank Account was attached and the money from the Bank Account was collected. He submits that this could have not been done even if there was a violation of the order in not paying one instalment in time.

We understand that the matter is subject matter of an appeal pending before the appellate Commissioner-Respondent No.2. Since the appeal is pending before the Commissioner, we feel that it would be appropriate that the Commissioner decides the matter. Since the petitioner's money has already been attached and recovered, therefore the appeal needs speedy disposal. We direct the Commissioner to dispose of the appeal within two weeks from today. The learned Counsel appearing for the respondent shall communicate this order to the learned Commissioner. Copy be made available to him by 07.09.2004.

Writ Petition is accordingly disposed of. No costs.

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(BILAL NAZKI, J)

3rd September, 2004.

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(P.S.NARAYANA J)

ajr

To

1 The Assistant Commissioner of Income Tax, Circle-5(1), Visakhapatnam.
2 The Commissioner of Income Tax (Appeals-I), Visakhapatnam.
3 The Commissioner of Income Tax-I, Visakhapatnam.
4 The Manager, M/s.visakhapatnam Dist.Co-operative Central Bank

Ltd,Chodavaram, Visakhapatnam Dist.
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7 The Manager, M/s.Andhra Pradesh Bank, Chodavaram,Visakhapatnam Dist.

8 Two C.Cs. to the Government Pleader for Labour, High

Court Buildings, Hyderabad (O.U.T)

9 Two C.D. copies.